

PUBLIC PROSECUTOR

v.

MOHD NATSIR BIN ABDULLAH

HIGH COURT, KUALA LUMPUR
DATO' DR. VISU SINNADURAI J.
[FEDERAL TERRITORY CRIMINAL
TRIAL NO. 47-15-91]

14 MAY 1993

DANGEROUS DRUGS: Possession - Did accused have knowledge-Contemporaneous statement denying knowledge - Statement given by witness who is also the accused.

The Accused was arrested in the vicinity of the Castle Night Club in Jalan Dewan Sultan Sulaiman Satu, Kuala Lumpur. Just before his arrest, the Accused was seen carrying two plastic bags. When examined by the police, one of the plastic bags contained two tissue boxes and one newspaper package. In the other plastic bag were found two newspaper packages also containing bundles of yellow paper rolls. A total of 2,877 rolls were found. These rolls, on examination by the chemist was found to contain 757.60 grams of cannabis.

The Accused, from the time of his arrest to the time that he gave evidence in Court consistently maintained that he had no knowledge of the drugs in the bags, as the bags were not his, but belonged to one Saiful.

Held:

[1] The Accused in this case, from the time of his arrest to the time that he gave evidence in Court, consistently maintained that he had no knowledge of the drugs in the bags, as the bags were not his, but belonged to Saiful. In considering whether an accused person has sufficiently rebutted the presumption of possession of the dangerous drugs which were found under his control, it is legitimate for the Court to scrutinize the evidence as to what the accused said contemporaneously with the act or omission and also the surrounding circumstances under which the accused acted or failed to act.

[2] Having observed the demeanour of the accused in Court, the Accused appeared to the Court to be an honest and truthful witness. Even during cross-examination by the Deputy

- a Public Prosecutor, the Accused was unshaken and maintained his calm and withstood the rigours of the cross-examination. It should perhaps be pointed out that there is nothing improbable with the explanation given by the Accused. Furthermore, the evidence given by the Accused cannot be rejected merely because it was given by a witness who also is the accused person.
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[Accused acquitted and discharged].

Cases referred to:

- Haw Tua Tua v. PP [1981] 2 MLJ 49/[1981] 1 CLJ 123 (cit)
- c Ragunathan v. PP [1982] 1 MLJ 139 FC/[1982] 1 CLJ 25 (cit)
- Munusamy v. PP [1987] 1 MLJ 492 SC/[1987] 1 CLJ 250 (cit)
- PP v. Lam San [1991] 3 MLJ 426/[1991] 3 LLJ 2410 (cit)
- PP v. Chew Yoo Choi [1990] 2 MLJ 444 (cit)
- d Loo Kek Leong v. PP [1992] 2 MLJ 177/[1992] 3 CLJ 1332 (cit)
- Nagappan Kuppusamy v. PP [1988] 1 SCR/[1988] 1 CLJ 283 (fol)
- Illian Eudin and Another v. PP [1988] 1 SCR 203 (fol)
- Mohd. Radzi bin Yaacob v. PP [1992] 2 SCR 1/[1991] 3 CLJ 2073 (cit)
- e Pang Chee Meng v. PP [1992] 2 SCR 1 (cit)
- PP v. Badrulsham bin Baharom [1988] 2 MLJ 258 (fol)
- PP v. Low Say Seck and Others [1971] 1 MLJ 199 (fol)
- PP v. Tan Tuan Seng [1993] 2 CLJ 557 (cit)

- f **Legislation referred to:**
Dangerous Drugs Act 1952, ss. 37(d) & (d)(a), 39(B), (1)(a), (2)

For the prosecution - Shamsul Sulaiman
For the accused - Muhamad Burok

JUDGMENT

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Dr. Visu Sinnadurai J:

Facts

The accused, an Indonesian of Achenese origin, was charged for trafficking in dangerous drugs under s. 39(B) of the Dangerous Drugs Act. The charge read as follows:

- i Bahawa kamu, pada 5 Disember, 1990, jam kira-kira pukul 10.25 malam di hadapan Castle Night Club, Jalan Dewan Sultan Sulaiman 1, di dalam Bandaraya Kuala Lumpur, di Wilayah Persekutuan telah mengedar dadah berbahaya iaitu cannabis yang beratnya berjumlah 757.60

gram, dan dengan itu kamu telah melakukan suatu kesalahan di bawah s. 39(B)(1)(a) Akta Dadah Berbahaya, 1952 (Disemak-1980), Akta 234 dan boleh dihukum di bawah s. 39B(2), Akta yang sama.

On 5 December 1990, the accused was arrested in the vicinity of the Castle Night Club in Jalan Dewan Sultan Sulaiman Satu, Kuala Lumpur. Just before his arrest the accused was seen carrying two plastic bags. When examined by the police, one of the plastic bags (7-Eleven) contained two tissue boxes and one newspaper package. In the newspaper package were 10 bundles of rolls of yellow paper. The tissue boxes also contained bundles of rolls of yellow paper. In the other plastic bag were found two newspaper packages also containing bundles of yellow paper rolls. A total of 2877 rolls were found. These rolls, on examination by the chemist was found to contain 757.60 grams of cannabis.

Prosecution's Case

The prosecution's case is a straightforward one. The prosecution has argued that as the accused had custody and control of the bags containing the dangerous drugs, he is, under s. 37(d) of the Dangerous Drugs Act presumed to have possession of the drugs. As he is presumed to have possession, he is also presumed to have knowledge of the drugs in the bags. The prosecution further contends that by the application of the presumption under s. 37(d)(a), the accused is presumed to be trafficking in the drugs.

At the end of the prosecution's case, this Court, following the principles stated in *Haw Tua Tua v. PP* [1981] 2 MLJ 49 PC and as applied in *Ragunathan v. PP* [1982] 1 MLJ 139 FC; and *Munusamy v. PP* [1987] 1 MLJ 492 SC, being satisfied that a *prima facie* case, which if unrebutted would warrant a conviction, had been made out against the accused, called upon the accused in accordance with s. 180 of the Criminal Procedure Code to make his defence. I should, perhaps, observe that it would appear as a general rule that once the prosecution has adduced evidence to the satisfaction of the Court that the presumptions under s. 37(d) and (d)(a) are applicable, the Court would invariably have to call upon the defence, so as to enable the defence to rebut the presumptions. In other words, once the presumptions have

a been activated by the prosecution by establishing the prerequisite facts, the prosecution would in such cases also have succeeded in establishing a *prima facie* case.

Defence's Story

b The accused who chose to give evidence on oath said that he was an illegal immigrant from Indonesia. Ever since his arrival in Malaysia, he was unable to obtain a job as he did not have proper immigration papers. During this period, he befriended another Indonesian by the name of Saiful who ran a food stall (also selling cigarettes) in the vicinity of the Castle Night Club. Saiful had been helpful to the accused, and on a number of occasions had provided the accused with free meals. In return, the accused helped Saiful in the food stall.

d On the night of his arrest, the accused who had just had his dinner, was approached by Saiful to take the two bags which were handed over to the accused by Saiful to pass them on to a Chinese person who was waiting across the road by a white car. The accused without asking Saiful any questions as to the contents of the bags, took the two bags and went across the road to deliver them to the Chinese person. *e* It was at this stage when he was handing over the bags to the Chinese person that he was arrested by the police.

The accused further said that the police also arrested the Chinese person at the same time when he was arrested. After his arrest, the accused was taken to the police station where he saw the same Chinese person in a different lock up. The accused was interrogated by the police and he told the police about Saiful. The police asked him details of Saiful and his business and also as to where Saiful lived. The police took the accused in a car and the accused pointed out to the police Saiful's stall and his house. *f*

g A few days after his arrest, on 10 December 1990, a cautioned statement was recorded from the accused. The prosecution, however, did not tender this cautioned statement in Court. *h*

Defence

i Defence counsel in his submission raised a number of points to challenge the prosecution's case. The defence, first questioned the analysis of the drugs by the Chemist; and secondly

contended that the accused did not have possession of the drugs as he had no knowledge of the drugs in the bags, which he was merely carrying for Saiful.

Some Observations by the Court

During the course of the trial, especially during cross examination by the counsel for the accused, the following points were brought to the attention of the Court:

(a) Exhibits

Inspector Mustapha Kamal (SP5) who was the raiding officer gave evidence in Court to describe the sequence of events which led to the arrest of the accused on 5 December 1990. He said that he had received certain information, which he had not recorded in writing, which led to the arrest of the accused. At about 9.00 p.m., he and a team of police officers made certain observations in the area surrounding the Castle Night Club for one hour and twenty minutes. They then saw the accused walking alone carrying two plastic bags. He immediately went straight to the accused, identified himself and examined the two bags. He then arrested the accused. Inspector Mustapha Kamal then took the accused and the two plastic bags to the Ampang Police Station. Here, he further re-examined the bags. He then kept the exhibits in his room until the next day when he handed them over to the investigating officer, Inspector Basharuddin.

Inspector Basharuddin, having examined the bags and its contents kept the exhibits in a cabinet in his room until 28 December 1990 when he took them out to have them photographed by Kannasamurthi (PW1). After the photographs were taken, the exhibits were repacked and tied in a parcel and sealed. Inspector Basharuddin kept the exhibits in a steel cabinet in his office until 22 January 1991, when he took them out to take them to the Chemistry Department for analysis.

From 22 January 1991 until 14 June 1991 the exhibits were kept in the Chemistry Department. Again Inspector Basharuddin, when he took the exhibits from the Chemistry Department, took them back to his office and kept them in his steel cabinet until almost three months when he took them out again and handed them over to the Exhibit Store at Cawangan Anti Dadah.

- a* It appears to the Court that the long period of time when the exhibits were kept in Inspector Basharuddin's office (initially for one-and-a-half months, and after receiving it back from the Chemist for three months), and also in the Chemistry Department (almost 6 months), does not appear to be the proper manner to safeguard the exhibits. Though there was no evidence to establish that the exhibits were tampered with, it should be pointed out that as the exhibits are the most vital proof to establish the offence of trafficking, every effort should be made to ensure the safe keeping of these exhibits.

c (b) Police Report

- d* Defence counsel through cross examination adduced evidence in Court to establish that the police report number as appearing on the photograph was different to that relating to the police report pertaining to this case. The report number appearing in the photograph was 19892/90 and not 19092/90. Inspector Basharuddin, however, pointed out that the exhibits as appearing in the photograph bearing the number 19892/90 was the same as that relating to this case. He admitted that he had made a mistake in writing the number, that is, instead of writing a '0', he had written an '8'.

- e* The prosecution to establish that there was no mix-up of the exhibits, brought in Sergeant Tukiman (SP6) to show that the police report number 19892/90 related to a completely different matter which was unrelated to drugs. It was a police report made by a female Malay that she had lost a purse and its contents in the area of Semua House.

- f* Again, it is the view of this Court that in offences of such serious nature, all precautions should be taken by the police to ensure that no mistakes relating to the exhibits are made.

g (c) Photographs

- h* A number of photographs were tendered by the prosecution as exhibits. One of them related to the drugs that were found on the accused at the time of his arrest. A number of other photographs were tendered as exhibits of the scene of the incident. The police photographer (PW1) said that he took these photographs of the scene of the incident at the instruction of Inspector Basharuddin on 2 January 1991.

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These photographs were taken late in the evening and as I have said earlier, the prosecution tendered them as exhibits to show the area where the accused was arrested. However, these photographs of the scene of the incident did not provide much assistance, as the exact location as to where the accused was arrested could not be identified. Nor did the photographs assist the prosecution in any way in advancing its case. In fact, when Inspector Mustapha Kamal was examined by the defence as to the name of the road or the stall where a part of the police team was stationed, the photographs provided him with little assistance.

I raise this point pertaining to the tendering of photographs as exhibits in Court, to emphasise the point that exhibits should not be indiscriminately tendered in Court and that they should have some evidentiary value to them. The mere tendering of the photographs as exhibits do not by itself add anything to the prosecution's case, more so especially when it was taken much later and at a different time.

(d) Testimony of Inspector Mustapha Kamal

As pointed out earlier, Inspector Mustapha Kamal was the raiding officer. During cross examination by the counsel for the accused, it became clear to this Court that he had forgotten much of the details relating to the arrest of the accused. He was permitted by this Court to refer to his police diary. Under cross examination, he admitted that he was not even sure as to the exact name of the road where the accused was arrested. For example, when he was asked: "Do you know of Jalan Sultan Dewan Sulaiman Dua?", he replied "I am not sure.". When asked "It was just Jalan Sultan Dewan Sulaiman only?", he answered "I am not sure.". Further, when he was asked by defence counsel "Where is Castle Night Club? Is it situated in Jalan Sultan Sulaiman - at Satu or Dua?" the answer again was "I am not sure of the road". These are merely some examples of the tentative manner in which this witness gave evidence in Court to certain questions to him posed by the defence counsel. I shall revert to Inspector Mustapha Kamal's testimony in the latter part of this judgment.

(e) Weighing Machine Used By Chemist

Defence counsel attempted to challenge the findings of the chemist as to the weight of the

a drugs on the ground that the weighing machine used by the chemist did have a certificate of calibration as required by the Weights And Measures Act 1972 and the regulations made thereunder. The learned Deputy Public Prosecutor, however, argued that neither the Act nor the regulations applied to a weighing machine used by government chemists. In this respect, I tend to agree with the views of the learned Deputy Public Prosecutor that the Weights and Measures Act nor the regulations made thereunder are applicable to weighing machines used by government chemists to weigh the drugs. As to evidence given by chemist regarding the weight of the drugs, see generally the observations of the Supreme Court in *Munusamy v. PP* [1987] 1 MLJ 492 and *PP v. Lam San* [1991] 3 MLJ 426. But see the views of Faiza Tamby Chik JC in *PP v. Chew Yoo Choi* [1990] 2 MLJ 444.

d (f) Analysis of the Drugs

Defence counsel argued strenuously, on the authority of the Supreme Court's decision in *Loo Kek Leong v. PP* [1992] 2 MLJ 177; [1992] 2 SCR 481, that the drugs found on the accused was not cannabis within the definition of the term in s. 2 of the Dangerous Drugs Act. It would be remembered that the Supreme Court in *Loo's* case held that on the definition of the term cannabis in s. 2 of the Dangerous Drugs Act, that if there had been a substantial extraction of the resin (but not necessarily without a trace in the residue), the said plant material ceased to be cannabis as defined by the Act.

f Mr Chan Kee Bian, the government chemist (SP2), however, gave evidence in detail as to the various tests that he had conducted to determine whether the drugs found were cannabis within the definition of s. 2 of the Dangerous Drugs Act. He clearly stated in evidence that in conducting these tests, there had been no extraction of resin from the plant material which he analysed.

g I am satisfied that from the tests conducted by Mr Chan and from the evidence he had adduced in Court, the drugs were in fact cannabis as defined by the said Act.

h (g) Impeachment

During cross-examination by the learned Deputy Public Prosecutor of the accused, who as I have stated earlier chose to give evidence

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on oath, the Deputy Public Prosecutor attempted to impeach the credibility of the accused. For this purpose, the learned Deputy Public Prosecutor attempted to point out the contradictions in the evidence adduced by the accused in Court to that which he had earlier stated in his cautioned statement. It should be remembered, as stated earlier, the cautioned statement itself was not tendered as an exhibit by the prosecution. The Deputy Public Prosecutor then, in accordance with impeachment proceeding highlighted to the Court the relevant parts of the cautioned statement which he claimed contained the contradictory evidence. The Court after considering these relevant parts held that they were not material for purposes of impeachment.

I should perhaps point out that impeachment proceedings should not be brought against accused person merely because there are certain minor discrepancies between the evidence given by the accused and the statements made by the accused that are contained in the cautioned statement. It should be borne in mind that the circumstances under which an accused person makes a cautioned statement are quite different to that existing at the time when the accused elects to give evidence in Court. This is particularly so when the prosecution itself had elected earlier not to rely or tender the cautioned statement as evidence. The important factor to bear in mind is that the impeachment must relate to important and material evidence.

I now move on to consider the law applicable in the instant case.

The Law

As the accused was arrested whilst he was holding the bags containing the drugs, the prosecution has argued that in so doing the accused had custody and control of the drugs. The prosecution, therefore, relied on s. 37(d) of the Dangerous Drugs Act. Under this section, any person who has custody or control over anything is said to have possession of whatever is contained in "anything", that is in this particular case, **the two bags**. Once a person is presumed to have possession, he is also presumed to have knowledge of the drugs in the bag. Furthermore, by virtue of s. 37(d)(a), such a person is also deemed to be trafficking in the drugs.

- a* In this particular case, there is no doubt that the accused had custody and/or control of the **bags**. There is direct evidence to establish this fact. The accused was seen carrying the bags and he, himself had admitted that he was carrying the bags, though it was given to him by Saiful. Therefore, because the accused
- b* had custody of the bags, he is presumed to also have possession of the drugs contained in the bags. However, one of the ingredients of possession is knowledge. But, as I have stated earlier, knowledge of the drugs on the part of the accused is, however, presumed under s. 37(d).

- c* Therefore, as this is a rebuttable presumption, and as knowledge is an important ingredient of the offence of possession, the accused, if he succeeds in establishing (and thereby rebutting the presumption) that he had no knowledge of the drugs in the bags, he would have also succeeded in rebutting the presumption of possession.

Issue

- d* Therefore, the sole issue in this case is whether on the evidence adduced, the accused had succeeded in rebutting the presumption of knowledge and thereby had also rebutted the presumption of possession, and hence trafficking.

Application of the Law

- e* In the instant case, the accused gave evidence on oath that he did not have any knowledge of the contents of the bags as the bags did not belong to him but to Saiful. Saiful had handed him the bags, giving him instructions to pass them on to a Chinese person who was waiting across the road.
- f* As stated earlier, the accused said that after he had his meal at Saiful's stall, he went to buy cigarettes. It was at this time that Saiful approached him and handed him the bags to deliver them to the Chinese man waiting by a white (Proton Saga) car. The accused said that he did see a Chinese man by a white car. He then took the bags over to where the Chinese man was and as he was handing them over to him he was apprehended by the police. The accused also said that the Chinese man was also arrested by the police. The police interrogated the accused. He told the police about Saiful and his business and that the bags
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belonged to Saiful. The police then took the accused and asked him to identify Saiful's house and the stall but the police did not question anybody at that house nor the stall. The accused did say in Court that he was indebted to Saiful and that he would do anything for Saiful as instructed.

Inspector Kamal who was the raiding officer, however, denied that there was a Chinese person arrested at the same time as the accused. He, however, admitted that when the accused was arrested, the accused immediately told him that the bags belonged to Saiful and that Saiful was at the stall.

It should perhaps also be pointed out that Inspector Kamal said in Court that the accused was not arrested near a white car, but when he was walking along the road in front of a book shop. However, when asked by defence counsel as to whether he noticed a white car in the vicinity, he said he was not sure. Furthermore, as pointed out earlier, Inspector Kamal was also unsure as to the exact name of the road where the accused was arrested. He said that from the information he had received he was able to identify the accused even though there were many others in the area.

The question now raised for determination is whether there was a person by the name of Saiful and whether from the evidence adduced by the accused, he has convinced this Court that the bags were not his and that he had no knowledge of its contents.

The burden of proof cast on an accused in such a case as this, where he needs to rebut a statutory presumption is now well established. Hashim Yeop Sani SCJ in *Nagappan Kuppusamy v. PP* [1988] 1 SCR 271, at page 275 said:

Where the burden is shifted to the defence by a statutory presumption, the test in *R v. Carr Briant* [1943] 1 KB 607 and adopted in *PP v. Yuvaraj* [1969] 2 MLJ 89[PC] would be applied as in civil proceedings, namely on the balance of probabilities.

Again, Wan Suleiman SCJ in *Illian Endin and Another v. PP* [1988] 1 SCR 203, at page 209 said:

Here we should perhaps pause to remark that the presumption under s. 37(d), that the person affected is deemed to have been in possession, and to know the nature of the

a drug 'until the contrary is proved', and in s. 37(a) deemed to be trafficking in the drug 'until the contrary is proved' which as long ago as the well-known decision in *Rex v. Carr Briant* [1943] 1 KB 607 means that burden resting on a party to civil proceedings, i.e. on the balance of probability.

b More recently, the Supreme Court in *Mohd Radzi bin Yaacob v. PP* [1992] 2 SCR 145, at page 151 said:

In the course of the prosecution case, the prosecution may of course rely on available statutory presumptions to prove one or more of the essential ingredients of the charge. When that occurs, the particular burden of proof as opposed to the general burden, shifts to the defence to rebut such presumptions on the balance of probabilities which from the defence point of view is heavier than the burden of casting a reasonable doubt, but it is certainly lighter than the burden of the prosecution to prove beyond reasonable doubt.

d See also the observations of Abdul Hamid, LP in *Pang Chee Meng v. PP* [1992] 2 SCR 1, on the burden of proof placed on an accused person.

e Applying the burden as established in these cases, it is pertinent for this Court to consider whether on the balance of probability, the evidence of the accused as adduced in Court was such that he had no knowledge of the drugs.

f The accused in this case, from the time of his arrest to the time that he gave evidence in Court, consistently maintained that he had no knowledge of the drugs in the bags, as the bags were not his, but belonged to Saiful's. Immediately after his arrest, he told Inspector Mustapha Kamal that the bags belonged to Saiful. During interrogation, he said the same and the police then took him to identify Saiful's stall as well as his house. In the cautioned statement, he maintained the same story. In this regard, I agree with the views expressed by Lim Beng Choon J in *PP v. Badrulsham bin Baharom* [1988] 2 MLJ 258 where his Lordship

g said that in considering whether an accused person has sufficiently rebutted the presumption of possession of the dangerous drugs which were found to be in his actual physical custody or under his control, it is legitimate for the court to scrutinize the evidence as to what the accused said contemporaneously with the act or omission and also the surrounding

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circumstances under which the accused acted or failed to act.

Having observed the demeanour of the accused in Court, the accused appeared to the Court to be an honest and truthful witness. Even during cross-examination by the Deputy Public Prosecutor, the accused was unshaken and maintained his calm and withstood the rigours of the cross-examination. I should perhaps also point out that I find nothing improbable with the explanation given by the accused. Furthermore, the evidence given by the accused cannot be rejected merely because it was given by a witness who also is the accused person. In this regard, I share the views expressed by Sharma J in *PP v. Law Say Seck and Ors.* [1971] 1 MLJ 199, at page 201 where his Lordship said:

...I cannot say that I do not believe the accused. I am not entitled to take that attitude merely because they appear as accused before me. They have given evidence on oath. The position thus is that I am unable to say that I disbelieve the accused ...

It should further be pointed out that there has been no direct evidence to contradict the accused's story. There was no evidence (even though the prosecution is under no duty to adduce such evidence), to show that the accused had such knowledge of the drugs in the bags.

I should perhaps also point out in this regard that there was no fingerprints to positively connect the accused to the drugs in the bags. The importance of fingerprints has been emphasised in several cases and I need not elaborate upon it in this judgment: See the recent decision of this Court in *PP v. Tan Tuan Seng* [1993] 2 CLJ 557 and the cases referred to therein.

It would appeal to me that on this ground alone, that is, that the accused having rebutted the presumption on the balance of probabilities, he is entitled to an acquittal.

However, I would add that there are certain other features of this case which has also influenced me in taking this view. As stated earlier, the key witness, and I may add the *only* witness for the prosecution has been Inspector Mustapha Kamal. As stated earlier in my judgment, the evidence adduced by Inspector Mustapha Kamal left much to be desired. He was very tentative in some of his answers. To

a certain questions he merely remarked that he did not know the answer. The evidence adduced by him was that on certain information received, he and a team of police officers went to the vicinity of the Castle Night Club, and after a while, on seeing the accused, immediately arrested him. He admitted in evidence
b that the area around Castle Night Club was busy but failed to convince this Court on how he recognised the accused. Though strictly speaking, such information need not be disclosed in Court, it would appear that the only information that Inspector Mustapha Kamal had was
c that a person carrying two plastic bags containing drugs would be in that area. The description of the person may well have been that of Saiful, or for that matter anyone else. If the Court had been satisfied that the information which Inspector Mustapha Kamal had regarding the person, matched with that of the accused, the position may well have been different. But as it is, whether the information which was given to Inspector Mustapha Kamal was of the accused or Saiful or any other person remains unclear.

I should perhaps also point out that none of the other police officers who were in the raiding team with Inspector Mustapha Kamal gave evidence to substantiate some of the evidence adduced by Inspector Mustapha Kamal, particularly as to the existence of the white car, or of the existence of a Chinese person or more importantly as to where exactly the accused was arrested.
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Conclusion

Bearing these factors into consideration, and in considering the evidence in its totality, I accept the explanation of the accused. This Court is, therefore, of the view that the accused has raised a reasonable doubt on the prosecution's case and has therefore rebutted the presumptions under s. 37(d). He should, therefore, be acquitted and discharged.
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Having held that the accused has rebutted the presumption under s. 37(d), I need not go further to consider whether the presumption of trafficking under s. 37(d)(a) has also been rebutted.
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I therefore accordingly acquit and discharge the accused, Mohd Natsir bin Abdullah.

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